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Promotion and protection of human rights: human rights situations and reports of special rapporteurs and representatives

Belarus: draft resolution

Situation of democracy and human rights in the United States of America

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, the provisions of the Universal Declaration of Human Rights,¹ the International Covenants on Human Rights² and other applicable human rights instruments,

Reaffirming that all States have an obligation to promote and protect human rights and fundamental freedoms and to fulfil relevant international obligations they have freely undertaken,

Mindful that the United States of America is a party to the International Covenant on Civil and Political Rights,² the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment³ and the International Convention on the Elimination of All Forms of Racial Discrimination,⁴

Recalling that each State party to the International Covenant on Civil and Political Rights undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming that improving security and the fight against terrorism should be conducted with full respect for human rights and democratic principles,

¹ Resolution 217 A (III).

² Resolution 2200 A (XXI), annex.

³ United Nations, *Treaty Series*, vol. 1465, No. 24841.

⁴ Resolution 2106 A (XX), annex.



Bearing in mind the European Parliament resolution on Guantanamo of 28 October 2004,

Noting that the United States of America is a member of the Organization of American States and is obliged to observe the human rights standards under the Charter of that Organization, and aware that on 29 December 2003, the Inter-American Commission on Human Rights of the Organization of American States concluded that the United States of America was responsible for violations of the rights of the residents of the District of Columbia under articles II entitled "Right to equality before law" and XX entitled "Right to vote and to participate in government" of the American Declaration of the Rights and Duties of Man, adopted by the Organization of American States in Bogotá on 2 May 1948, by denying them an effective opportunity to participate in their federal legislature,

Taking note of the report of the needs assessment mission on the presidential elections in the United States of America of the Organization for Security and Cooperation in Europe,⁵

1. *Expresses deep concern and dismay:*

(a) At the reports from credible resources on systematic violations of fundamental rights and freedoms in the United States of America, including alarming attacks on press freedom and tight control over news media; arbitrary, incommunicado and secret detentions and arrests; electronic surveillance without a court order; and continued and expanding intolerance, xenophobia and discrimination;

(b) That the electoral system in the United States of America does not comply with the obligations of that country under the International Covenant on Civil and Political Rights² to provide every citizen with the right and opportunity to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;

(c) That despite the report of the United States Commission on Civil Rights on voting irregularities in Florida during the 2000 presidential election,⁶ which concluded that in Florida election policies and practices had been in place that prevented some of Florida's residents, particularly African Americans, Spanish- and Creole-speaking nationals with language assistance needs and persons with disabilities, from voting and from having their votes counted, such practices continued during the presidential election of 2004;

(d) That some election techniques, including verification requirements, disproportionately disenfranchise the poor, the elderly, minorities and immigrants;

(e) That despite promising to improve the electoral system after the 2000 presidential election, the United States of America has failed to reform the system, which remains fundamentally flawed and could disenfranchise some eligible voters and allow manipulation of the results of elections;

(f) That despite the fact that, like other States members of the Organization for Security and Cooperation in Europe, the United States of America has freely

⁵ Available from www.osce.org.

⁶ Available from www.usccr.gov/pubs/vote2000/main.htm.

taken on a politically binding commitment to ensure that the election is free and fair, it is not meeting its commitment by prohibiting independent international and domestic observers from monitoring the presidential and parliamentary elections;

(g) That the United States of America continues to violate international standards in its use of the death penalty with respect to minors and the mentally ill;

(h) That the legislative measures of the United States of America to enhance security, including the adoption and implementation of the USA PATRIOT Act of 2001, have led to the limitation and abuse of vital civil rights and freedoms of nationals of the United States of America and of other countries as well;

(i) That massive human rights abuses committed by the United States of America while waging the war on terror both overseas and within its borders have downgraded the cause of human rights and the value of human life and have led to the erosion of the international framework of human rights principles;

(j) That the aggressive tactics used by the United States of America to curtail the power of the International Criminal Court, inter alia, considering the possibility of withholding economic assistance from the Governments that refuse to grant immunity to the nationals of the United States before the Court, may devalue and debilitate this important institution in its constructive endeavour to promote the rule of law;

(k) Regarding information on the deprivation of the rights of undisclosed numbers of persons, including minors, detained as a result of military operations launched in Afghanistan and being held at present in detention camps located in Guantanamo, which has led to the creation of the Gulag of modern times, through entrenchment of the practice of arbitrary and indefinite detention in violation of international law, as well as regarding the cases of forced disappearance of these detainees;

(l) That the refusal or failure to clarify the whereabouts or status of the detainees, leaving them outside the protection of the law for an indefinite period, clearly violates the standards of the Declaration on the Protection of All Persons from Enforced Disappearance;⁷

(m) That unwillingness to apply the Geneva Conventions of 12 August 1949⁸ to the detainees in Guantanamo violates international human rights law and calls into question the sincerity of the United States of America in respect of fulfilling its obligations under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;³

(n) At the continued reports of ill treatment, torture, death in custody and excessive use of force by police and prison officers, including the use of isolation, dogs, sensory and sleep deprivation, death threats and other forms of torture and cruel, inhuman or degrading treatment as interrogation techniques;

(o) That actions by the United States of America give full grounds for claiming that its stated opposition to torture and other cruel, inhuman or degrading treatment has been circumstantial and therefore that those actions are profoundly inconsistent with its international obligations;

⁷ See resolution 47/133.

⁸ United Nations, *Treaty Series*, vol. 75, No. 970-973.

(p) That the United States Military Commissions Act of 2006 restricts the full enjoyment of human rights;

(q) That as a result of such practices the United States of America has inflicted serious damage upon the global cause of protection and promotion of human rights;

2. *Urges the United States of America:*

(a) To put an end to the violations of human rights;

(b) To become a party to all core international human rights instruments, namely, the International Covenant on Economic, Social and Cultural Rights,⁹ the Optional Protocols¹⁰ to the International Covenant on Civil and Political Rights, the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity,¹¹ the International Convention on the Suppression and Punishment of the Crime of Apartheid,¹² the Convention on the Elimination of All Forms of Discrimination against Women,¹³ the International Convention against Apartheid in Sports,¹⁴ the Convention on the Rights of the Child,¹⁵ and the Agreement establishing the Fund for the Development of the Indigenous Peoples of Latin America and the Caribbean, thus allowing the international community to monitor the situation of human rights in the United States of America in full;

(c) To fully cooperate with special procedures of the Human Rights Council to ensure that all necessary measures are taken to investigate fully and impartially all cases of arbitrary detention, forced disappearance, summary execution and torture and that perpetrators are brought to justice before an independent tribunal and, if found guilty, punished in a manner consistent with the international human rights obligations of the United States of America;

(d) To bring the electoral process and legislative framework into line with international standards;

(e) To take necessary steps, in accordance with its constitutional process and with the provisions of the International Covenant on Civil and Political Rights, as well as with respect to the conclusions of the Inter-American Commission on Human Rights, to grant the residents of the District of Columbia, an effective remedy, which includes adopting the legislative or other measures necessary to guarantee to them the effective right to participate, directly or through freely elected representatives and in general conditions of equality, in their federal legislature;

(f) To abolish the death penalty with respect to minors and the mentally ill;

(g) To end immediately the practice of incommunicado and secret detentions and ensure that conditions of detention conform to international standards for the treatment of prisoners and take into account the needs of members of particularly vulnerable groups;

⁹ See resolution 2200 A (XXI), annex.

¹⁰ Resolution 44/128, annex.

¹¹ Resolution 2391 (XXIII), annex.

¹² Resolution 3068 (XXVIII), annex.

¹³ United Nations, *Treaty Series*, vol. 1249, No. 20378.

¹⁴ Resolution 40/64 G, annex.

¹⁵ United Nations, *Treaty Series*, vol. 1577, No. 27531.

(h) To take the necessary steps to become party to the human rights instruments adopted by the Organization of American States, namely, the American Convention on Human Rights: "Pact of San José, Costa Rica", the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights: "Protocol of San Salvador", the Inter-American Convention on the Forced Disappearance of Persons, the Inter-American Convention to Prevent and Punish Torture, the Inter-American Convention on the International Return of Children, the Inter-American Convention on Conflict of Laws Concerning the Adoption of Minors, the Inter-American Convention on International Traffic in Minors, the Inter-American Convention on the Granting of Civil Rights to Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women: "Convention of Belem do Para";

(i) To undertake urgently all measures necessary for detainees of Guantanamo to be granted a fair and just hearing before the court, either in the United States of America or in an internationally recognized institution;

(j) To implement a zero-tolerance policy on torture by investigating all allegations of torture and holding perpetrators of torture accountable so as to promote a culture in which torture is regarded as unacceptable, criminal behaviour;

(k) To invite all relevant human rights monitoring mechanisms, especially the Special Rapporteurs of the Human Rights Council on torture and other cruel, inhuman or degrading treatment or punishment and extrajudicial, summary or arbitrary executions, and the Working Groups of the Council on Enforced or Involuntary Disappearances and Arbitrary Detention, to visit all places of detention and to grant them unlimited access to all detention camps;

(l) To take urgent measures to bring legislation on national security into compliance with the obligations of the United States of America under the relevant international instruments;

(m) To bring the actions of its police and security forces into conformity with its obligations under the International Covenant on Civil and Political Rights as well as other relevant international standards;

(n) To suspend the duties of high-ranking officials implicated in gross human rights violations, including through granting authorization to their subordinates to engage in practices inconsistent with international standards as well as through rendering to superiors legal counsel incompatible with obligations of the United States of America under international agreements;

3. *Insists* that the United States of America cooperate fully with and extend invitations to all the mechanisms of the Human Rights Council, including the Working Groups on Arbitrary Detention and Enforced or Involuntary Disappearances, and the Special Rapporteurs on torture and other cruel, inhuman or degrading treatment or punishment and extrajudicial, summary or arbitrary executions;

4. *Decides* to continue its consideration of this question at its sixty-second session under the item entitled "Promotion and protection of human rights".